

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Steven M. Palay et al.
Application No. : 10/598,460
Filed : August 31, 2006
Patent No. : 7,868,873
Issued : January 11, 2011
For : SURFACE AND CORDLESS TRANSDUCER SYSTEM

Examiner : Ilana L. Spar
Art Unit : 2629
Docket No. : 940131.413USPC
Date : March 7, 2011

Mail Stop Petition
Commissioner for Patents

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(d)

Commissioner for Patents:

Applicants hereby request reconsideration of the patent term adjustment under 35 U.S.C. § 154(b) indicated on U.S. Patent No. 7,868,873 issued on January 11, 2011. As required under 37 C.F.R. § 1.705(b)(1), enclosed is authorization for payment of \$200 in accordance with 37 C.F.R. § 1.18(e).

Because this Request seeks reconsideration of the patent term adjustment under the “(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY” prong of 35 U.S.C. § 154(b), the calculation of delay beyond the three-year pendency period had to wait until the patent actually issued, and therefore this Request relates to an issue that could not have been raised prior to issuance of the patent. This Request is timely filed within two months of the issue date of U.S. Patent No. 7,868,873 in accordance with 37 C.F.R. § 1.705(d).

This patent is subject to a terminal disclaimer relative to U.S. Application No. 12/059,990, which is a continuation application of the present patent and is still pending. Thus, no expiration date is specified in the terminal disclaimer.

Statement of the Facts:

- This application is a PCT national phase application and the national stage commenced under 35 U.S.C. 371(b) on October 1, 2006.
- A Notice of Allowance was mailed on November 17, 2010. A Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed on the same day indicated the patent term adjustment was 564 days.
- Applicants timely paid the issue fee on December 2, 2010, and U.S. Patent No. 7,868,873 issued on January 11, 2011. The patent term adjustment indicated on the issued patent was 582 days, with 18 days being added to the previously indicated 564 days.
- A Patent Term Adjustment History on PAIR indicates that 18 days were added to account for the “PTA 36 Months” delay, which was calculated from the wrong “Commencement Date” of October 1, 2007. (*See* line number “94.4” of the History.) As indicated above, the correct commencement date under 35 U.S.C. 371(b) of this case is October 1, 2006. (*See* line number “6” of the History)
- Thus, the “PTA 36 Months” delay indicated in the History is off by one full year (365 days), and the correct “PTA 36 Months” delay calculated from the correct “Commencement Date” of October 1, 2006, is 383 days (=18 + 365). *See* 37 C.F.R. 1.702(b) and 1.703(b).

U.S. Patent No. 7,868,873
Request for Reconsideration of Patent Term Adjustment

Request for Reconsideration:

Consequently, the correct patent term adjustment is **947 days** (=564+383).
Applicants respectfully request reconsideration of the patent term adjustment.

Respectfully submitted,

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